

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

EARL D. PHIFFER,

Petitioner,

ORDER

v.

10-cv-400-slc

GREGORY GRAMS, Warden,
Columbia Correctional Institution,

Respondent.

Petitioner Earl Phiffer, a prisoner at the Columbia Correctional Institution, has filed an application for a writ of habeas corpus pursuant to 28 U.S.C. § 2254. He requests leave to proceed *in forma pauperis*. Petitioner has supported his request with an affidavit of indigency and a six-month trust account statement from the institution.

In determining whether to allow a prisoner to proceed *in forma pauperis*, this court uses the following formula. First, the court determines petitioner's average monthly deposits and his average monthly balances for the six-month period mentioned above. If 20% of the greater of these two figures is \$5 or more, the petitioner is not eligible for indigent status and will have to prepay all of the \$5 filing fee. If 20% of the greater of these two figures is less than \$5, he will be required to prepay whatever portion less than \$5 has been calculated.

Applying this formula to petitioner, I find that he is able to pay at least a portion of the filing fee. According to the trust account statement, in the past six months petitioner's

monthly deposits have averaged \$16.80. Twenty percent of this figure is \$3.36. Accordingly, I will grant petitioner's application for leave to proceed *in forma pauperis* on the condition that he prepay \$3.36.

ORDER

IT IS ORDERED that the petition of Earl Phiffer for leave to proceed *in forma pauperis* is GRANTED on the condition that he prepay the amount of \$3.36. Petitioner has until August 10, 2010 to pay this amount. If he fails to submit the partial fee by August 10, 2010, his petition will be dismissed for failure to prosecute it.

Entered this 20th day of July, 2010.

BY THE COURT:


PETER OPPENEER
Magistrate Judge